IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	:	Confirmation No.: 6062
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Gerard PALLIPURAM	:	Attorney Ref.: 3599.ACCESS.ASA
	:	
Serial No.: 09/826,733	:	Art Unit: 2143
	:	
Filed: April 4, 2001	:	Examiner: Alina A. Boutah
	:	

FOR: ONE-TO-MANY DEVICE SYNCHRONIZATION USING DOWNLOADED/SHARED CLIENT SOFTWARE

REPLY BRIEF

MAIL STOP: APPEAL BRIEF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Responsive to the Examiner's Answer dated February 23, 2007, kindly enter the following remarks.

Remarks begin on page 2 of this paper.

REMARKS

Reconsideration and allowance in view of the following remarks are respectfully

requested.

Rejection of Claims 1-9 and 27-39 Under 35 U.S.C. §102(e)

The Office Action rejects claims 1-9 and 27-39 under 35 U.S.C. §102(e) as being

anticipated by Hebel et al. (U.S. Patent No. 6,073,177) ("Hebel et al."). Appellants respectfully

traverse the Examiner's position regarding the teachings of Hebel et al.

In the Examiner's Response to Arguments on page 11 of the Examiner's Answer, he

asserts that column 6, lines 33-67 of Hebel et al. also disclose "that there is a common piece of

software used by all client workstations and the server to access a database." The Examiner

proceeds to discuss the synchronization database and how the client workstation creates a copy

of synchronization database local to the machine executing the client to create a client working

database 11A. Appellants respectfully traverse this analysis noting that the Examiner is blending

the software having instructions for <u>performing</u> a data synchronization compliant with the server

with the actual "information" or database itself that is synchronized. According to claim 1, the

server device has the client software that comprises instructions for performing a data

synchronization that is compliant with server. The first client device of claim 1 establishes the

communication link with the server and receives a copy of the client software from the server in

response to the communication link being established. We note that no such function is taught in

column 6 of Hebel et al. inasmuch as the "common piece of software" taught in Hebel et al.

already exists on both the server 13 and client workstations 11.

Appellants also note that column 6, lines 34-37 teach the following: "All database access

and updates done by the client workstations 11 and the server 13 is through the database engine

11A and 13A in FIG. 2."

Appellants note that the teachings of Hebel et al. are unclear in this regard inasmuch as Figure 2 does not illustrate any database engine 11A and 13A. What is shown in Figure 2 are databases 11a for the workstations 11 and database 13a as the database for the server 13. We note that there is a distinction between the databases which are referred to using the lower case "a" and the database engines which are referred to with the capital "A". However, the database engines are simply not shown in Figure 2 thus, providing some confusion regarding where and how the database engines are configured according to the disclosure of Hebel et al.

It appears that based on the language in column 6, a database engine 11A and 13A is "on top of" each database 11a and 13a. Thus, Appellants simply note that the software that manages the access and updates performed by client workstations 11 and the server 13 are simply already existing "on top of" both the client workstations 11 and the server 13. Thus, the steps set forth in claim 1 regarding the server having the client software which comprises instructions for performing data synchronization compliant with the server and wherein the client device receives a copy of the client software from the server in response to a communication link being established between the client device and the server device and wherein the client software is then used to perform the data synchronization with the server to obtain a portion of the information is clearly not taught in Hebel et al. Appellants respectfully submit that it is clear that Hebel et al. considers the database engine or the common piece of software used by the client workstations 11 and the server 13 simply already exist on each respective device such that Hebel et al. cannot anticipate the present claim set. For example, because the database engine already exists on both workstations, Hebel et al. simply provide no information regarding transmitting any of the "client software" (or "database engines") recited in the claims.

Accordingly, Appellants respectfully request that the Board fairly and accurately analyze the teachings of Hebel et al. and when the separation between the synchronization of the

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database and the transmission of the client software having the instructions for performing the

data synchronization are understood, then it becomes clear that claims 1-9 and 27-39 are not

anticipated by Hebel et al.

Rejection of Claims 10 and 40 Under 35 U.S.C. §103(a)

The Office Action rejects claims 10 and 40 under 35 U.S.C. §103(a) as being

unpatentable over Carini et al. (U.S. Patent No. 6,636,873) ("Carini et al."). On page 10 of the

Examiner's Answer, he concludes it would be obvious to one of ordinary skill in the art to

incorporate various mobile devices from Carini et al. into the teachings of Hebel et al. "to allow

potentially geographically disseminated and disconnected users to synchronize the data stored on

their mobile devices." Appellants have cited some of the basic principles of establishing a *prima*

facie case of obviousness in the Appeal Brief. Appellants further note that the standard of

evidence required is only by a preponderance of the evidence. In other words, the MPEP only

requires that the evidence against the obviousness to combine two references only slightly

outweigh the evidence that may exist supporting the combination of two references. Appellants

have argued and present a fair argument why one of skill in the art would, by a preponderance of

the evidence, not have sufficient motivation to combine these references. We note that Hebel et

al. focus on a dynamic data synchronization network that is provided for a plurality of

workstations 11 that are coupled to a common server 13 using the network. See Abstract. The

Abstract also teaches that the workstations are "capable of generating data such as a design

model or portions of a design model." Further information about such design models are found

in column 1, lines 17-23. Here, Hebel et al. teach:

> "Faced with growing application backlogs and skyrocketing maintenance costs, the
> system development community has sought productivity and quality improvements using
> various Computer Aided Software Engineering (CASE) tools such as the Information
> Engineering Facility (IEF) and Composer products of Texas Instruments Incorporated."

The background of the invention in columns 1 and 2 continue to discuss the various steps

of information engineering and the various stages that are gone through by engineers to utilize

such tools as the CASE tools. The IEF implementation is a sophisticated diagramming model

that was under development at the time of Hebel et al. and the diagrams actively contribute to

pseudo code, target code and database code for performing a variety of analyses and utilizing

business models on main frame computers. Column 3, lines 1-5, state the focus and object of

Hebel et al. It is the following:

> "It is desirable to provide a client/server type, IEF type CASE tool where the
> development projects are always coordinated between the developers with real time
> model sharing, so changes to the model are reflected immediately to all of the work
> stations."

If one were to balance the suggestive power of the workstation centric focus of Hebel et

al. in which complicated IEF type CASE tools are being implemented for its suggestive power

that such CASE tools could be utilized in a wireless context, Appellants submit that such a

suggestion or motivation cannot be found within the teachings of Hebel et al. Hebel et al. does

not teach a general mechanism of synchronizing various computers with other computers without

any further focus or attention. Clearly, the synchronization approach in Hebel et al. is positively

identified as particularly suited to the computer-aided software engineering tools such as the

Information Engineering Facility that was developed by Texas Instruments. There is simply no

suggestion or motivation which can be found within Hebel et al. that the principles disclosed

therein would be applicable or could be applicable or desirable in small mobile devices. The

weight of the evidence is against such a suggestion.

Accordingly, Appellants reiterate the argument that hindsight is required to blend these

references. The evidence brought forth by the Examiner that both Hebel et al. and Carini et al.

relate to synchronization provides some evidence to support the conclusion that it would be

obvious to blend these references. However, on the balance, Appellants have provided further

details about the teachings of Hebel et al. that outweigh the Examiner's evidence. Simply put, one of skill in the art would instantly have his or her mind focused on "workstations" 11 by reading the Abstract and as that person of skill in the art were to continue to read and study the teachings of Hebel et al., the mind would become even more focused on the complicated CASE tools and Information Engineering Facilities and realize that the synchronization approach of Hebel et al. is much more narrow in its scope than is characterized by the Examiner. When this narrow workstation approach is reviewed and analyzed in terms of it suggestive power to one of skill in the art it certainly focuses the person of skill in the art down into a workstation approach that does not lend itself to providing the requisite motivation or suggestion that its principles would be desirable or capable of being combined with wireless devices. Accordingly, Appellants respectfully request that the Board find that the preponderance of the evidence is in Appellants favor and that one of skill in the art would not combine Hebel et al. with Carini et al. Thus, claims 10 and 40 are patentable and in condition for allowance.

CONCLUSION

Having addressed all rejections and objections, Applicant respectfully submits that the

subject application is in condition for allowance and a Notice to that effect is earnestly solicited.

If necessary, the Commissioner for Patents is authorized to charge or credit the **Deposit Account**

No. 50-3102 for any deficiency or overpayment.

Respectfully submitted,

Date: April 23, 2007

By: _____

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